

107TH CONGRESS  
1ST SESSION

# S. 1851

To amend part C of title XVIII of the Social Security Act to provide for continuous open enrollment and disenrollment in Medicare+Choice plans and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 19 (legislative day, DECEMBER 18), 2001

Mr. BINGAMAN (for himself, Mr. CHAFEE, Mr. ROCKEFELLER, Mr. KENNEDY, Mr. FEINGOLD, Mr. CORZINE, Mr. REED, Mrs. CLINTON, Mr. KERRY, and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend part C of title XVIII of the Social Security Act to provide for continuous open enrollment and disenrollment in Medicare+Choice plans and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Medicare+Choice Con-  
5 sumer Protection Act of 2001”.

1 **SEC. 2. CONTINUOUS OPEN ENROLLMENT AND**  
 2 **DISENROLLMENT.**

3 (a) IN GENERAL.—Section 1851(e)(2) of the Social  
 4 Security Act (42 U.S.C. 1395w–21(e)(2)) is amended to  
 5 read as follows:

6 “(2) CONTINUOUS OPEN ENROLLMENT AND  
 7 DISENROLLMENT.—Subject to paragraph (5), a  
 8 Medicare+Choice eligible individual may change the  
 9 election under subsection (a)(1) at any time.”.

10 (b) CONFORMING AMENDMENTS.—

11 (1) MEDICARE+CHOICE.—Section 1851(e) of  
 12 such Act (42 U.S.C. 1395w–21(e)) is amended—

13 (A) in paragraph (4)—

14 (i) by striking “Effective as of Janu-  
 15 ary 1, 2002, an” and inserting “An”;

16 (ii) by striking “other than during an  
 17 annual, coordinated election period”;

18 (iii) by inserting “in a special election  
 19 period for such purpose” after “make a  
 20 new election under this section”; and

21 (iv) by striking the second sentence;  
 22 and

23 (B) in paragraphs (5)(B) and (6)(A), by  
 24 striking “the first sentence of”.

1           (2) PERMITTING ENROLLMENT IN MEDIGAP  
 2           WHEN M+C PLANS REDUCE BENEFITS OR WHEN  
 3           PROVIDER LEAVES A M+C PLAN.—

4           (A) IN GENERAL.—Clause (ii) of section  
 5           1882(s)(3)(B) of such Act (42 U.S.C.  
 6           1395ss(s)(3)(B)) is amended—

7                   (i) by inserting “(I)” after “(ii)”;

8                   (ii) by striking “under the first sen-  
 9                   tence of” each place it appears and insert-  
 10                   ing “during a special election period pro-  
 11                   vided for under”;

12                   (iii) by inserting “the circumstances  
 13                   described in subclause (II) are present or”  
 14                   before “there are circumstances”; and

15                   (iv) by adding at the end the following  
 16                   new subclause:

17           “(II) The circumstances described in this sub-  
 18           clause are, with respect to an individual enrolled in  
 19           a Medicare+Choice plan, a reduction in benefits (in-  
 20           cluding an increase in cost-sharing) offered under  
 21           the Medicare+Choice plan from the previous year or  
 22           a provider of services or physician who serves the in-  
 23           dividual no longer participating in the plan (other  
 24           than because of good cause relating to quality of  
 25           care under the plan).”.

1 (B) CONFORMING AMENDMENT.—Clause  
 2 (iii) of such section is amended—

3 (i) by inserting “the circumstances de-  
 4 scribed in clause (ii)(II) are met or” after  
 5 “policy described in subsection (t), and”;  
 6 and

7 (ii) by striking “under the first sen-  
 8 tence of” and inserting “during a special  
 9 election period provided for under”.

10 (c) EFFECTIVE DATE.—The amendments made by  
 11 this section shall take effect on January 1, 2002, and shall  
 12 apply to reductions in benefits and changes in provider  
 13 participation occurring on or after such date.

14 **SEC. 3. LIMITATION ON MEDICARE+CHOICE COST-SHARING.**

15 (a) IN GENERAL.—Section 1852(a) (42 U.S.C.  
 16 1395w–22(a)) is amended by adding at the end the fol-  
 17 lowing new paragraph:

18 “(6) LIMITATION ON COST-SHARING.—

19 “(A) IN GENERAL.—Subject to subpara-  
 20 graph (B), in no case shall the cost-sharing  
 21 with respect to an item or service under a  
 22 Medicare+Choice plan exceed the cost-sharing  
 23 otherwise applicable under parts A and B to an  
 24 individual who is not enrolled in a  
 25 Medicare+Choice plan under this part.

1                   “(B) PERMITTING FLAT COPAYMENTS.—  
2                   Subparagraph (A) shall not be construed as  
3                   preventing the application of flat dollar copay-  
4                   ment amounts (in place of a percentage coin-  
5                   surance), such as a fixed copayment for a doc-  
6                   tor’s visit, so long as such amounts are reason-  
7                   able and appropriate and do not adversely af-  
8                   fect access to items and services (as determined  
9                   by the Secretary).”.

10           (b) EFFECTIVE DATE.—The amendment made by  
11 subsection (a) shall apply as of January 1, 2003.

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